

REMARKS

Status of the Claims

Claims 1-6 and 14 are pending, with claim 1 being independent. Without conceding the propriety of the rejections, claims 7-13 have been canceled and claim 1 has been amended to incorporate the subject matter of canceled claims 9-11 merely to expedite prosecution. Applicants expressly reserve the right to file one or more divisional and/or continuation applications directed to the subject matter of canceled claims 7-13. Claims 1-4 and 6 have been further amended to address antecedent basis. No new matter has been added.

Initially, Applicants would like to thank the Examiner for the indication that claim 11 would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. Applicants point out that merely to expedite prosecution, claim 1 has been amended to include the limitations of claim 11 as well as intervening claims 9 and 10.

Claim Rejections Under 35 U.S.C. § 112

Claims 1-11 and 14 stand rejected under 35 U.S.C. § 112, second paragraph, as allegedly indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. This rejection is respectfully traversed.

Applicant respectfully submit that the amendments to claims 1-4 and 6 obviate the rejection of claims 1-11 and 14 under 35 U.S.C. § 112, second paragraph. Accordingly, withdrawal of the rejection of claims 1-11 and 14 under 35 U.S.C. § 112, second paragraph, is respectfully requested.

Claim Rejections Under 35 U.S.C. § 102

Claims 1-4, 6-10, and 14 stand rejected under 35 U.S.C. § 102(b) as allegedly anticipated by U.S. Patent No. 5,271,513 ("Crosnier"). This rejection is respectfully traversed.

Applicants point out that EP 0 5380 162, which is equivalent to Crosnier, is discussed at page 3, lines 4-12, of the present application. Crosnier discloses a device for closing containers. Fig. 4 of Crosnier describes a device comprising a chamber (65) closed by a hood (10) at the output valve. In the lower part of the chamber is an elastic member which is deformed when the pusher is actuated. Such member comprises a part (61) which looks similar to the hood (10). In contrast, in the presently claimed metering pump the lower valve is identical (not similar) to the upper valve. In Crosnier the two parts (10) and (61) have

clearly different functions: (10) is a closure means and (61) is a kind of piston.

However, merely to expedite prosecution, claim 1 has been amended to incorporate the subject matter of canceled claims 9-11. Accordingly, withdrawal of the rejection of claims 1-4, 6-10, and 14 under 35 U.S.C. § 102 as allegedly anticipated by Crosnier is respectfully requested.

Claim Rejections Under 35 U.S.C. § 103

Claim 5 stands rejected under 35 U.S.C. § 103(a) as allegedly unpatentable over Crosnier in view of U.S. Patent No. 4,723,694 ("Sykes"). This rejection is respectfully traversed.

Sykes, cited as teaching the use "of valve that is made of a material having a Shore A hardness of between 40 and 80" (Office Action, Page 4), does not cure the above-noted deficiencies of Crosnier. However, merely to expedite prosecution, claim 1 has been amended to incorporate the subject matter of canceled claims 9-11. Accordingly, withdrawal of the rejection of claim 5 under 35 U.S.C. § 103(a) as allegedly unpatentable over Crosnier in view of Syke is respectfully requested.

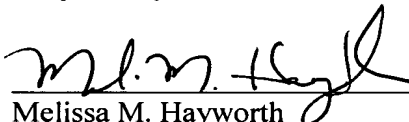
CONCLUSION

In view of the foregoing amendments and remarks, Applicants respectfully submit that the art of record does not disclose or suggest the inventive concepts of the present invention as defined by the present claims. In view of the foregoing remarks, reconsideration of the claims and allowance of the subject application is earnestly solicited. In the event that there are any questions relating to this application, it would be appreciated if the Examiner could telephone the undersigned attorney concerning such arguments so that prosecution of this application may be expedited.

If necessary to effect a timely response, this paper should be considered as a petition for an Extension of Time sufficient to effect a timely response, and please charge any deficiency in fees or credit any overpayments to Deposit Account No. 05-1323 (Docket #1032013-000124).

Respectfully submitted,

February 11, 2008


Melissa M. Hayworth
Registration No. 45774

CROWELL & MORING LLP
Intellectual Property Group
P.O. Box 14300
Washington, DC 20044-4300
Telephone No.: (202) 624-2500
Facsimile No.: (202) 628-8844